

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

CHAMBER SUMMONS NO. 618 OF 2005

IN

EXECUTION APPLN NO. 54 OF 2005

IN

ARB. CASE NO. L/67/2003/2004

M/s. Indian Vastralaya ... Plaintiff.

Vs.

M/s. Mahabir Textile ... Defendant

Versus

Urmil S. Sanghvi ... Applicant

Mr. Rupesh i/by Monali Gaikwad for Applicant.

Mr. Narendra Jain i/by Rakesh Jain for Plaintiff.

CORAM : A.M. KHANWILKAR,J.

DATED : JUNE 22, 2005

P.C.

. Heard counsel for the Parties.

2.	By	this	application,	the	applicant	prays	that
the	attachment	levied	on	12.4.2005	on	the	Room No.
50,	2nd	Floor,	Bhatia	Bhuvan,	"A"	Block	Building
No.	218,	Ash	Lane,	Gokhale	Road	-	North, Dadar
(West),	Mumbai	400	028	and	movable	lying	therein in

Execution Application No. 54 of 2005, be raised and the warrant of attachment be set aside.

3. In support of this prayer, the case of the applicant is that the applicant is owner of the

disputed premises in her own rights and in support of this fact, possession receipt on Rs.10/- stamp paper dated 12.11.1992 is produced on record. The possession receipt indicates that Bhanji Shah who was in occupation of the disputed premises made over vacant and peaceful possession thereof to the applicant herein. From the declaration cum undertaking dated 9th November, 1992 affirmed by Bhanji Hirji Shah, it is seen that Bhanji Shah was occupying the premises as tenant of L.I.C. and applicant has entered into possession of the disputed premises through said Bhanji Shah.

4. The documents produced on behalf of the applicant to show transfer of title of the disputed premises in his favour are inadmissible for the simple reason that they are not registered documents though relate to transfer of interest in the immovable property, assuming that the applicant's case was to be accepted as it is. Interestingly no consideration is paid for the purported transfer in favour of the applicant. Besides, the argument clearly overlooks the fact that said Bhanji Shah, was occupying the premises as tenant, if so, he had no right to dispose of the property in favour of the applicant. For the provisions of the Bombay Rent Act, as applicable at

the relevant time, prohibited such transfer. Besides, no document is produced to show that the competent Authority of L.I.C. has authorised such transfer. It is perhaps for that reason, the document pressed into service makes no reference to the consideration amount. Further, the applicant is none other than brother of the Judgement Debtor. It is seen that the Judgement Debtor is operating from the disputed premises and conducting his business therein. The documents which have been produced on record to justify the stand taken by the applicant claiming to be tenant in the disputed property and not Judgement Debtor, therefore, are of no avail. Accordingly, I see no reason to entertain this application for raising of attachment as filed. Hence, application dismissed with costs.

(A.M. KHANWILKAR,J.)